

DEVIN DERHAM-BURK #104353
CHAPTER 13 STANDING TRUSTEE
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Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:

RUBEN Z GUTIERREZ JR

Debtor

Chapter 13
Case No. 24-51583 MEH

TRUSTEE'S OBJECTION TO CONFIRMATION
WITH CERTIFICATE OF SERVICE

341 Meeting Date: DECEMBER 2, 2024 @ 9:30 AM
Confirmation Hearing Date: DECEMBER 18, 2024
Confirmation Hearing Time: 1:30 PM
Place: Place: Telephonic or Video Only

Judge: M. Elaine Hammond

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of the Debtor's Plan for the following reasons:

1. The Trustee questions the feasibility of the Plan pursuant to 11 U.S.C. §1325(a)(6). The Debtor is proposing plan payments of \$100.00 per month for 36 ; however, this amount will be insufficient to cover the administrative expense of \$1,290.83 per month to the Debtors attorney, as well as Trustee's fees.
2. The Debtor is not in compliance with 11 U.S.C. §521(a)(1)(B)(iii), as the Statement of Financial Affairs is incomplete. The Debtor has omitted the amount paid to attorney prior to filing on question 16. An amended Statement of Financial Affairs must be filed.

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- 2 3. The Trustee is unable to determine if the Plan is in compliance with 11 U.S.C. §1325(a)(4).
- 3 The Trustee has filed a separate objection to the Debtor's claimed exemptions which must
- 4 be resolved prior to the Trustee recommending confirmation.
- 5
- 6 4. The Trustee is unable to recommend confirmation because the length of the proposed
- 7 plan is less than the applicable commitment period under 11 U.S.C. §1325(b)(4). *See*
- 8 *In re Flores*, 735 F.3d 855 (9th Cir. 2013) (*en banc*). The
- 9 Debtor is below-median and the current plan term is 33 months. The plan term needs
- 10 to be 36 months.
- 11
- 12 5. The Trustee cannot recommend confirmation of the Plan because the Application for
- 13 Compensation has not been filed.
- 14
- 15 6. The Debtor has not complied with the following provisions contained in General Order 34
- 16 of the United States Bankruptcy Court for the Northern District of California therefore the
- 17 plan cannot be confirmed:
- 18 a. The Debtor has failed to provide the Chapter 13 Trustee with Form NDC 1-3
- 19 Class 1 Checklist for each Class 1 creditor.
- 20 b. The Debtor has failed to provide the Chapter 13 Trustee with Form NDC 1-4
- 21 Authorization to Release Information to Trustee.
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25 Dated: November 21, 2024

/S/ Devin Derham-Burk

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Chapter 13 Trustee

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Said envelopes were addressed as follows:

LAW OFFICE OF AARON LIPTON
7690 B SOQUEL DR #156
APTOS, CA 95003

/S/ Tania Ribeiro
Office of Devin Derham-Burk, Trustee